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Legislative Performance Audit Committee
September 19, 2008

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SENATOR SCHIMEK: I think we'll go ahead and get started this afternoon. And first of all I'd like to welcome you all to the hearing of the Performance Audit Committee on the personal services contract audit. And this is our first and only audit in the last or hearing in the last two years, so it's rather unusual, I guess. First of all, my name is DiAnna Schimek and I chair the committee. And I would like to introduce to you the members of the committee. And I'll start on my extreme right with the senator from Columbus, Nebraska, Senator Arnie Stuthman. Next to him is Senator Don Preister from Omaha. Next to him is the Vice Chair of the committee, Senator Vickie McDonald from St. Paul. To my left is Martha Carter who is the legislative auditor. And to her left is Sandy Harman who is the committee clerk. We are going to conduct this hearing just as many hears are conducted, and that means that there is a sign-up sheet which you need to sign up when you come up to testify. And when you testify it's important to say your name and to spell it for the transcribers. I would ask you to make sure your cell phones are all turned off. And we will not take proponents and opponents at this kind of a hearing. We are just really seeking information. And so we would just like you all to come and testify on the audit itself. We won't have time limitations, unless I see that it's going to become a really lengthy afternoon. But I would like you to try to be succinct with your comments. And we will begin today with the auditor who worked...one of the auditors who worked on this report, Don Arp. And we'll ask him to introduce the audit to the committee. And then, I think, DAS would like to go first, because they have to go out of town. So we'll ask DAS and then DHHS to testify, and then anyone else who is here, I see Foster Care is here, and anybody else who would like to testify once those two agencies have completed their testimony. So with that, I think I've covered everything. Don, would you like to begin? []

DON ARP: (Exhibit 1) Thank you, Senator Schimek. Members of the Performance Audit Committee, for the record my name is Don Arp, A-r-p. I was the lead auditor of the performance audit that examined the Department of Administrative Services' and the

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Department of Health and Human Services' statutory compliance and oversight of personal services contracts. At the committee's direction, the section conducted the performance audit of the personal services contracts that aimed to determine compliance with two sections of statute governing personal services contracts. Those sections contain general administrative requirements for DAS, as well as requirements for the agency that is actually entering into the contract. In order to examine the agency-specific portions of the statutes, we examined contracts held by the Department of Health and Human Services, specifically those regarding transporting wards of the state. For these contracts we also examined what mechanics that exist to ensure compliance with the terms of the contract. The importance of this last issue became readily apparent when two cases were reported in the Nebraska media during one week in February of 2008. In one case, a contracted driver was allegedly under the influence of alcohol while transporting a state ward. In another case, a contracted driver allegedly sexually assaulted a state ward. The section found in the audit that Administrative Services is in compliance with the statutory requirements relevant to its duties, including that it establish a process for the replacement of a full-time equivalent employee with a contracted worker, specify the database that identifies where a copy of each contract can be found, and maintain the agencies' complete records of certain contracts. However, we also identified two issues not directly affecting statutory compliance but important nevertheless. First, although Administrative Services maintains the records of certain contracts, our review of these files found that a final, signed copy of the contracts was not a part of the record. In its response to this audit, Administrative Services has agreed to ask agencies to provide such a copy in the future. Further, Administrative Services, through the Nebraska Information System or NIS, complies with the requirement that it have a database of contract locations. However, this database has more errors and omissions than we believe it should and is not necessarily accessible to policymakers and the public, which was the Legislature's intent. To address these issues the section recommended that the committee consider whether additional oversight of personal services contract data is needed to improve the quality of that data, and if so, consider the appropriateness of giving additional authority

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to DAS to work with state agencies to do so. Further, to address the issues with the contract database, we recommended that the committee consider directing DAS to: (1) revise the fields in NIS that create the contract location report to reduce omissions and errors in the report; and (2) make a contract location report easily available to the public on a regular interval. The section's examination of the Department of Health and Human Services found that although DHHS is compliant with some sections of statute, there are several issues involving contract processing and oversight that raise concerns. We examined contracts held by DHHS, especially those for transporting wards of the state and the mechanisms that exist to ensure compliance with the terms of these contracts. We found that DHHS has considered these agreements to be exempt from statutory control on a broader level than actually provided for by law. These agreements were not processed through the NIS, as required, nor was the vendor selection process documented. DHHS' response to this issue contains significant inaccuracies, including using a quote from legislative history out of context and misquoting statute. In examining contract oversight and monitoring, the section found: DHHS has no comprehensive method of determining compliance with many of the requirements of transportation...for transportation contractors; DHHS does not have a comprehensive system for reviewing contract performance. Specific problems with DHHS' process include that the level of payment review varies depending on if the transportation is paid with Medicaid or non-Medicaid funds; DHHS conducts no random sampling of non-Medicaid invoices to look for discrepancy patterns; DHHS does not have a written policy or procedure for determining mileage, which is a crucial element of internal control for billing; DHHS has no systematic way to determine compliance with contract terms or detect potential problems. We also found that DHHS has no systemwide policy on how to handle complaints against contractors until it developed one in response to the draft audit report. The second also found that there is a disparity in penalty between foster parents and transportation drivers for not using a child safety seat. Foster parents could have their foster parent licenses suspended or revoked; there is no similar penalty for transportation drivers. We also found that foster parents undergo a 50-state criminal background check, while transportation providers must only undergo a background

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check within Nebraska, unless the provider him- or herself discloses a reason to check with other states. To be clear, DHHS' practices do not violate current law. We raise these inconsistencies to give the committee the opportunity to consider them as policy questions, while acknowledging that in the case of the background checks there would be a financial cost to such a change. We also agree (sic, disagree) with DHHS' position that the distinction that a relative amount of time a person, either a foster parent or a driver, spends with the child should influence the safety seat penalties. The offense is the same and the penalty should also be the same. Further, in regards to the background checks, this same argument does not sufficiently acknowledge the risk to children being transported under the contracts in question. DHHS has already taken some steps to address the issues raised in this report and plans to address further findings through its newly formed Comprehensive Quality Improvement Unit. I would be happy to answer any questions you may have. []

SENATOR SCHIMEK: Yes, Senator McDonald has a question. []

SENATOR McDONALD: In your testimony, would you reread the second, it would be the second page, last paragraph, starts with "we", "we also." []

DON ARP: We also disagree? []

SENATOR McDONALD: Okay, yes. And I think that in...when you were readying you said, "we also agree." []

DON ARP: Oh, my mistake. Yeah, we disagree. []

SENATOR McDONALD: So would you complete that whole sentence then. []

DON ARP: Sure. We also disagree with DHHS' position that the distinction that a relative amount of time a person, either a foster parent or driver, spends with a child

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should influence the safety seat penalty. []

SENATOR McDONALD: Thank you. []

SENATOR SCHIMEK: Thank you, Senator McDonald. Senator Preister. []

SENATOR PREISTER: Thank you, Senator Schimek. And thank you, Senator McDonald. I was going to start out in complimenting Mr. Arp for being so thorough in his report. And I think you were. But it was more of a language slip than something technical. And I appreciate Senator McDonald pointing that out. In your testimony you made reference to finding five. And that was maintaining a complete record. And DAS had agreed that they didn't have complete responsibility directly in DAS, but that they would ask the agencies to do that. To your knowledge, has that been done? Has it started yet, or is that something still off in the future or maybe I need to ask them? []

DON ARP: To my knowledge that hasn't started yet. But it's not something we have checked on. []

SENATOR PREISTER: Okay. All right, thank you. And thank you again for...and to all the staff that worked on it. []

SENATOR SCHIMEK: Thank you, Senator Preister. Senator Stuthman, you're recognized. []

SENATOR STUTHMAN: Thank you, Senator Schimek. Mr. Arp, in your final statement, you know, it said, to be clear DHHS practices do not violate a current law. And that may be true. But don't you feel an organization or agency as large as that should have, you know, contracts in place and everything like that? Wouldn't that be a common practice of a large agency like that? To me, in listening to your testimony, and I really appreciate it, is the fact that it seems like, well, if they didn't have a contract with somebody to

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transport a foster child, they went out to the street and said, hey, we'll give you \$1 a mile to transport this kid 50 miles, will you do it? Yeah, I'll do it. And have no record or anything like that, that really does concern me. You know, I think there should be contracts to backup every check that is paid to some provider. []

DON ARP: And I think in actual practice from how DHHS is conducting business is there is what they call a service provider agreement with every one that provides transportation. The issue with checking to see if the contractors are compliant with the terms of the contract, I think, is a very different issue. DHHS contracts predominantly with three types of contractors. They call it, you know, a peer transporter provides transportation only. Transporter that provides transportation, part of giving another service, for example, like a care home, like a foster care home or what's called friends and family, and that's when the state ward selects a family member or friend to provide transportation for them. []

SENATOR STUTHMAN: And this contract is with a service provider. But you can't find anything, you know, as far as contracts that the ones that are providing the service for X amount of dollars, you know, can they back up, you know, where they utilize that money. []

DON ARP: I don't know that I understand your...? []

SENATOR STUTHMAN: If there's an agency that is contracting with DHHS... []

DON ARP: Sure, um-hum. []

SENATOR STUTHMAN: ...to provide the transportation... []

DON ARP: Sure. []

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SENATOR STUTHMAN: And there's probably a signed contract for... []

DON ARP: Yeah. []

SENATOR STUTHMAN: ...for agency F to provide that stuff. But then is there anything found, you know, as to, you know, have they delivered these kids? Is the amount of money that we paid them, are they utilizing it or is it...or what's happening beyond that? []

DON ARP: To our understanding, currently there are no checks, no spot checks, no audits of whether trips actually occur, whether the billing is accurate for both mileage and whether the trip occurred, we did not discover any of those, any steps taken to determine any of that. []

SENATOR STUTHMAN: Is that the responsibility of our Audit Committee or is that the responsibility of HHS? []

DON ARP: Seems like it would be a responsibility of the agency contracting for services to make sure they're getting what they've paid for. []

SENATOR STUTHMAN: Okay, thank you. []

SENATOR SCHIMEK: Seeing no further questions, Don, thank you for a nice job as well. And I failed to mention that we have a couple of pages with us today. Chauncey Brown and Brennen Miller are with us today, so we'd like to thank them. And I'd like to ask Laura Peterson to come forward to be the first testify. And I would like to say that I think our agencies have been very responsive and have been cooperative in working with the audit staff. And I think that's generally true but not always. So it is very appreciated that they are willing to work with us on any problems that we might see. So, Laura. []

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LAURA PETERSON: Thank you, Senator Schimek, members of the committee. My name is Laura Peterson, P-e-t-e-r-s-o-n. I'm general counsel for the Department of Administrative Services. And I actually do not have any prepared testimony this afternoon. As you can see both from the report and hear from Don's testimony, fundamentally our agency agrees with the report. We very much appreciate the opportunity to talk with the staff who came and made several visits to different folks within our agency. And although there are a couple of things that we've agreed to work on, there really was no fundamental disagreement about interpretation of a statute or what we're doing. So I more came as a result of the conversation with Don, to be available if you have questions about the portions of the report that deal with the Department of Administrative Services. []

SENATOR SCHIMEK: Okay, Laura. Are there questions from the committee? Yes, Senator Preister. []

SENATOR PREISTER: Thank you, Ms. Peterson. I appreciate your appearing today. My question is the one that I asked Don. DAS would make the recommendation to the agencies. But it's the agencies responsibility to keep the complete record. And Mr. Castillo says, in his letter, that he will recommend, encourage the agencies to keep those complete records. Do you know if that has started yet or if that's something off in the future or when will that request be made, do you know? []

LAURA PETERSON: My understanding is that all of the things that were in this report, what we did was went through them with the folks who do training within our agency, that includes both the folks in purchasing and the folks in NIS, because that's training, but both deal with parts of the purchasing process. And that they are including that in all training now, and that they are also currently in the process of revising, I know it's finalized, but I don't know if it's published yet, the manual for purchasing. And as a part of that, it will also identify that the complete record, in the case of emergency contracts,

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which I believe this finding was limited to,... []

SENATOR PREISTER: Right. []

LAURA PETERSON: ...should include a final copy of the signed contract. Remember that emergency contracts are ones that the agencies are allowed to enter into without any discussion with the Department of Administrative Services. Then they have a period to file the paperwork that documents why it was an emergency and all the things about the contract. There is no definition of "complete record," but we certainly understand why a signed copy of the contract...I think in most cases we had a copy of the contract, but it may have been the unsigned version. And we definitely...we have and will continue to, in all the ways that we communicate with agencies about purchasing, add that that is our advice that they include that signed copy as part of their complete record. []

SENATOR PREISTER: Good. I appreciate the response, also that it's incorporated into the training so that that way it comes more directly from the administration. It, I think, carries a little more weight, the emphasis is there. And I wouldn't see any reason why they wouldn't do that. Obviously a signed contract, you know that's the official one. There's no question whether it may be an early version, whether it's the actual negotiated one, or whether it's the final version. When they're signed it takes away the ambiguity I would think. []

LAURA PETERSON: Absolutely. I think there have been several good recommendations that came out of just looking at all of the data and trying to see where people maybe misunderstood the process, and take a look at those things that we maybe need to emphasize a little more in training that we had not been. So we'll include this particular one. Although emergency contracts are, of course, less frequent than regular contracts, but we certainly will...have already started to and will continue to add that. []

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SENATOR PREISTER: Okay, thank you. []

LAURA PETERSON: You're welcome. []

SENATOR SCHIMEK: Are there other questions? Laura, I have a question and it touches on one of the recommendations in the report, on page 31, where it says, the commission consider directing DAS to revise the field used to enter the location information to either make it unique to service contracts or to clarify the contents of the field by changing its name and to ensure that a service contract cannot be processed unless the field is completed. And (2) to make a contract location report, not NIS itself, publicly available annually or at some other regular interval. If the committee believes that DAS should have additional oversight of service contract data as discussed earlier, it should be considered whether that oversight should extend to the contract location information as well. And first of all, have you discussed that? You know part of my and I think Senator Preister's ongoing concern is that the Legislature doesn't have any way to get some of this information. And I'll let you answer the question I just asked first and then maybe have some follow-up questions too. []

LAURA PETERSON: I think we have started to talk about it. I don't think we've come to a resolution. And there are two different questions. One is clarifying the field. And I think they are looking into NIS, which is the easier way. I think what this stems from is that same field is used for a different purpose, whether it is a goods contract or service contract. So for goods, I don't recall exactly what the field is used for, but in service contracts it's used for location. And so they certainly could change the field descriptor, but there's a question about whether it would be better and programmatically how hard it would be to actually split those and use them...have one field for goods and one field for services so the descriptors could be even clearer. And I don't believe a resolution to that has been made yet. But they are looking into both with is easier and more cost-efficient from a programmatic standpoint versus what will get us the clearest

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instructions to individuals. I do think that they've looked at the training materials, though, and will....in the mean time, until that's resolved for sure in the system, we'll be sure that folks know what is supposed to go in there, whether you're doing a goods contract or service contract. And so I think that's a relatively easy resolution. And we will be finishing that relatively soon. The other question about making a report available, I believe this was really related to the location. []

SENATOR SCHIMEK: Um-hum, it was. []

LAURA PETERSON: And, I guess, there's sort of a discussion to be had about how much public interest there really is in the location of the physical contract. From a legislative standpoint, I mean, certainly there are folks within the Legislature who have statewide access who could run that report. And any senator who would ask us for it, we can run it relatively quickly and provide it. From a public standpoint, again, if they ask for it in a public record we would run it and we would have four days to give it to them. And it really does not take very much time. On the other hand, we really haven't had any requests for that information other than as a result of this audit. So there's a question about if you're going to produce information about purchasing, we do get several, weekly we get requests for purchasing information as public records requests and also from senators, I wouldn't say weekly, but periodically we get requests. But they are generally more limited to specific, you know, I want to know the kinds of contracts that were bid for this type of service or I want to know everyone who bid on this particular contract, I want to see a copy of all the bids for this particular contract. So I...we have a question about whether, while we could do that, no doubt you could produce that report, whether there's a real interest in having a report on a regular basis of where the contracts are physically located. []

SENATOR SCHIMEK: And I understand your point. But let me go in a little bit different direction then. It wasn't too long ago that the State Treasurer came out with a new Website that featured a listing of all...I don't know if it was a listing of all, but a total of all

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the service contracts that were supposedly out. And I think I even have the news article somewhere. At that time, I think, the DAS Website had about 30 service contracts listed. The Website for the Treasurer's Office had 1,826 service contracts listed for just 2007, and then even more than that in the whole period of time since 1998. That's something that we have been wanting and wanting and wanting from DAS and from the, not necessarily from the NIS system, but from some system somewhere. And we've not ever been successful in getting that. I don't know how the State Treasurer was able to do this, except that I think he went around and talked to individual agencies and so forth. Why can't DAS give us that kind of information, not all through the NIS system, but information that would be a compilation of everything. []

LAURA PETERSON: Well, I think there a little bit...two answers to that question. I'm not completely familiar with the data that's on the State Treasurer's Website, so I can't speak to either what specifically is there, although I understood it to be payments that were made and not the contracts themselves. []

SENATOR SCHIMEK: That's correct. []

LAURA PETERSON: And I believe they may run that information also out of payments issues at NIS. And so it looks like possibly payments that are made during that time frame. I think for service contracts we can provide a report of contracts that are in the system. And I think even in this report it talks about you can provide a report both of payments that are issued off those contracts,... []

SENATOR SCHIMEK: Um-hum. []

LAURA PETERSON: ...which...and you can identify the total value of those contracts over the life of the contract. And either one of those things, I think, were relatively readily available when requested by the Performance Audit Committee. And could now...I mean prior to LB626 passing and us starting to collect that information and NIS.

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We really didn't have a good central location to run a report like that. Now we can provide that kind of report out of NIS. And we have not published, not because maybe we couldn't, but simply again I think for us what we have published, what's on the purchasing Website, which is probably what you're referencing with the 30 contracts, is really statewide contracts or contracts that have been bid by purchasing for state agencies. And part of the reason that those are placed out there, particularly with statewide contracts, is because as you know under the statute all political subdivisions are allowed to purchase off of statewide contracts and so to make those available so that they can see the details of those, so that they can purchase off of them. But a listing of service contracts, either...however many are awarded, however many are in the system, payments that are issued off of them or the total dollar value over their life was run for this investigation and provided to you really just hasn't been something that we've had a lot of public requests for. Not that we couldn't provide it so much but just since we have the data available, which as you know is relatively recent, that just isn't something that we have published, but it doesn't mean that we could not publish it. []

SENATOR SCHIMEK: And maybe it would be a good idea for the Legislature to request something like that, an annual report. It wouldn't necessarily have to be a hard copy or anything. But just something that say the Government Committee at least would be privy to and could kind of have some kind of oversight over what's going on out there. []

LAURA PETERSON: And I think we could absolutely do that. And I don't know even that you would necessarily need legislation to that. I think we would be happy to receive a request from you and make an agreement about how often it's useful and what information you want,... []

SENATOR SCHIMEK: Um-hum. []

LAURA PETERSON: ...is it payments that were issued off of contracts, is it the total value and life of the contract, any of those sort of variables that we can now, as we've

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started to collect information, run reports on. I'm sure we'd be happy to talk to you or the Government Committee or whomever... []

SENATOR SCHIMEK: Okay. []

LAURA PETERSON: ...about what's needed. []

SENATOR SCHIMEK: Thank you. Senator Preister, I knew you'd have another question. []

SENATOR PREISTER: Thank you, Senator Schimek. You really got at the heart of the matter. Two aspects of it, Ms. Peterson. One is, as the information is being input to the system, if there is a field stop, if the information in that particular segment isn't completed then you can no longer continue. There would be a stop that would call attention to the person doing the input. So they complete all of it so all the information is consistent and it's all complete. That's one of the things that Senator Schimek mentioned that I think is crucial so we have that information. And I don't think that would be too expensive to set something up like that. The other aspect of it is not necessarily that a lot of members of the public are going to be coming and looking at the site. I don't see a need necessarily for an annual report. But access, if my staff wants to go to NIS and do an assessment, do something, if Senator Stuthman wants to look and see what kind of contracts are there for child transportation or any other, we shouldn't need an intermediary. It seems to me we should be able to have access, particularly after the statute is passed, to go directly to the Website, look at that and then make whatever determinations or whatever we want to without having to wait four days or to go through an intermediary kind of process. That was the goal with the original legislation. It also means that the public, who may want to do some assessment on their own, maybe they have expertise in a certain area and they may want to compare contracts or maybe they want to submit a contract proposal, a bid to get a contract. It gives them some information and I think it can help our bid process, can maybe get contracts cheaper,

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can save the taxpayer dollars. And I think that's the goal with making it available. You mentioned that we haven't had many requests. I wouldn't want that to be the standard by which we determine whether it should be out there. It's public information garnered by tax dollars. And just as the treasurer has done, he's letting people know where there money has gone. The other thing I really want to see that we haven't gotten to and haven't addressed in the legislation is to have some kind of cost comparison, whether a state employee is displaced or not displaced. I think it's just good accounting practices to know if this is the best way--to do a contract or to do it inhouse or to have some assessment. And I know in the personnel manual you've got some guidelines there on how to do a preprocess. But eventually I hope the Auditor or this committee or somebody takes that next step, because that's the one step that I don't feel we've ever really gotten to. And that was a long discussion. But the two essential issues were having a stop if the field isn't complete so the person can't go on. And I assume that's easy. You can comment on that. And then just the open access of government--having access to the contracts without having people request them. And any comments that you might like to respond with. []

LAURA PETERSON: From a programmatic aspect I don't know the exact ease with which you make fields a hard stop or a soft stop, so to speak. Whether, you know, if you do not enter this, you cannot go on. The alternative to that though I know is in most cases you can run a report on a periodic basis to show if a field is empty or the data in a field to see if that data is incorrect. So if...you want to balance what fields are really necessary with making absolutely every field necessary in the interest of just being able to allow people to do their business in an efficient manner. And so the alternative would be if you don't make a field a hard stop, you cannot go on if you don't enter this to run reports on a periodic level. And I think as part of this, you know, we saw that particularly with that one field of location there were some issues about agencies really understanding. And so there are several other things that just over the history since, it hasn't been that long since LB626 was passed and we started operating NIS, which was a new system. And we're trying to go through those things. There are several things that

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our agency sort of runs on a periodic basis to look for things that just don't quite make sense and go back to agencies. And while we may not...I think we even talk about that in the report at some point or at least with the Auditor's staff, that we will go back with agencies. And while we're not an enforcement agency in this particular arena we will go back to agencies and say, look, it looks like you're not using this field right or you're not filling in this data right or something might be missing. And so, you know, that's a balancing act about how much we want to mandate and how much we want to just try to assist people in compliance. On the reporting side, again I think it's a balance of...I think people have access to the information and it's how much we want to pre-publish and how much we want to have them request. I think either way they're getting the information. But that certainly is open to discussion all the time about what we're going to publish and obviously everything is becoming more and more electronic, but is it...do you want to put a copy of every single contract out or do we want to simply put the type of contract, the contract or the value? And that's all open for discussion about how much we publish and how much we have people request. []

SENATOR PREISTER: Sure. And I'm not suggesting that the entire contract is there. But in the field if you list the contract and one of the requirements, which would be a hard stop would be where the contract is located. Then you take into account staff efficiency and time. But yet if somebody has a particular interest they can look it up at home. And if they really want to see the contract they know exactly where to go. So hard stop, soft stops, a little window that comes up--do not proceed until you complete this section I think is a pretty standard part of programming. So I would encourage those things to be done. Thank you. []

SENATOR SCHIMEK: I think I have one last question, Laura. And that is, how confident do you feel about the quality of the contract data that is being entered now by the agencies? And that's putting you on the spot a little bit, but I think it's a legitimate question. []

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LAURA PETERSON: I think the one thing that I can say, having been here since we very first started doing this, is that it has improved year after year. And I think every time you run the report you find that there is something that has been entered wrong. I think every time you ever run the report you're going to find that there was an error. But I do think that Administrative Service has even gotten better and better at the type of instructions that we put out, the type of training that we do for agencies, the quantity of times...the understanding of our folks about what's difficult about the process and what's easy about the process and what's easy about the process and our ability to help the agencies sort of go through it. So I don't think I would say that it's perfect, but I definitely think that we're improving every year. And hopefully, you know, that continues to the point where every time we sort of do a review, whether it's legislatively started or just because we were looking at something internally and we find a problem, we improve the process through our training, through our discussions with agencies. And I think that's always going to happen. []

SENATOR SCHIMEK: So do we need to keep the pressure on? Do we need to keep the pressure on? (Laughter) []

LAURA PETERSON: Well, I don't know about that. I mean I think it's important for all of us to continue to review what we're doing. And I think definitely we've made leaps and bounds in the training that we're doing for agencies. And I know that Materiel Division has been working very hard on some new user-friendly manuals just as a part of looking at what needs to be published and what people really need to do their jobs. There are folks, like my own personal division of Administrative Services, we don't do a service contract very often. So we sent someone to training. But if you don't use it every day then you sort of lose it. And so, you know, making those materials available to the folks who need it on a less regular basis is important also. And hopefully, we're getting better and better. []

SENATOR SCHIMEK: Thank you. Seeing no further questions, thank you for being with

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us today. []

LAURA PETERSON: Thank you. []

SENATOR SCHIMEK: Is there anybody else from DAS who was going to testify that you know of, Laura? I guess not. DHHS. Good afternoon. []

TODD LANDRY: (Exhibit 2) Good afternoon. Chairman Schimek and members of the committee, my name is Todd Landry, L-a-n-d-r-y. I'm the director for the Division of Children and Family Services in the Department of Health and Human Services. I'd like to thank you for the opportunity to discuss the findings of the personal services contract audit by the Performance Audit Section, Legislative Audit and Research Office. I appreciated the way the audit process was conducted over the past several months by Mr. Arp and his staff and wish to convey to them my appreciation for their work. I'd like to take just a few minutes of your time to respond to a few of the issues brought up in the audit and have the committee hear more about the discussions, specifically about finding number nine. In addition to discussing actual findings, I'd also like to take this opportunity to inform the committee about improvements my division has been doing or is planning to do in order to become even more accountable as an agency with our service contracts, to hold our providers more accountable, and most importantly to produce better outcomes. Finding number nine states, "DHHS is not in compliance with some substantive statutory requirements as they relate to transportation contracts. DHHS' argument that these contracts do not apply to transportation services contracts is incorrect." I was able to specifically talk more about this issue with the Auditor's staff and also involved our legal staff and sent a follow up letter in April. The issue appears to be whether or not all contracts, such as personal services for transportation of state wards, should be entered on the Nebraska Information System, otherwise known as NIS. In years past, DHHS has operated with the understanding that provider agreements, such as those with transportation providers, were exempt from having to be entered on NIS. In further discussions and legal reviews it was determined that

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provider agreements and provider contracts specifically for transportation services were really functioning in the same manner. Based on this new interpretation and desire to have transportation service provision more accountable, the Division of Children and Family Services will be changing from provider agreements to contracts for transportation services to clarify the arrangement between DHHS and the provider. Since this is a new change within DCFS, my division, some time will be allowed in order to make necessary this adjustment and to come into compliance with entering transportation contracts on NIS. As you have already heard from Mr. Arp, Children and Family Services has three categories of transportation providers--commercial transportation providers, which were also under the Public Service Commission; supplemental transportation providers who provide transportation as part of another service, such as family support or chore services; and friends and family transportation, as specified in LB1069, passed in 2006. These three categories of transportation service types account for over 2,000 provider contracts. The vast majority of these contracts are within the friends and family category. The volume of contracts in the supplemental service category is fewer and has already further decreased as the division implemented its new safety and in-home service contracts and started moving in the direction of contracting with a limited number of lead providers for services rather than many providers of the same service. This same trend will continue as CFS develops and implements its plan for out-of-home reform where there will be a limited number of lead providers. Transitioning to lead providers has the added benefit of significantly increasing our ability to oversee and monitor a few contractors rather than hundreds of contractors. Children and Family Services can immediately start entering the transportation providers for commercial transportation providers and supplemental transportation providers in NIS. We believe this task can be accomplished within the next approximate 30 days. However, related to friends and family transportation providers I respectfully request that the committee give some consideration to the significant resources that would be required to accomplish this task and the duplication of effort involved and consider allowing an alternative. We will specifically be contacting DAS and requesting an exemption for the friends and family contracts. I'd like to explain

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more about my intentions for those contracts. We are currently using the statewide N-FOCUS system as the contract and payment processing system that has been in use since the '97-98 fiscal year. It's important to note that N-FOCUS also services as Nebraska's federally authorized Statewide Automated Child Welfare Information System, otherwise known as SACWIS. It provides integrated reports that are required for Nebraska to receive federal child welfare program funding, and the reports include much more than the contract information contained in NIS that is the subject of this audit. N-FOCUS is a centralized database housing all information about children and families served by the division and could be used to identify the location of each contract for services paid by N-FOCUS. This type of arrangement, if approved by DAS, we believe would meet the statutory requirement of 78-5034. Moreover, DAS would have immediate access to all the contracts through N-FOCUS. This would save literally hundreds of hours of staff time from having to enter information into two systems. The redundancy of having to enter data into two separate computer systems also would create significant fiscal waste and is not an efficient use of taxpayer dollars. As an example, I can also provide a printout from the N-FOCUS system and the NIS, and you can see that the same information about payment to a provider is available from either system. If DAS approves, N-FOCUS determination would need to be changed slightly. But I believe this alternative process of using N-FOCUS still provides the accountability, accessibility and documentation that DAS, the public and I want to see for accurate and timely accounting of taxpayer dollars expended on services. I'd like to end by pointing out the attached handout that you received, titled "Accomplishments related to Contract Oversight" to share with you the changes were making related to contract services and contract monitoring and oversight through our Comprehensive Quality Assurance area, which Mr. Arp mentions in the report and commented on and commended the department on a little bit earlier. I appreciate the opportunity to meet with you today. Be happy to answer any questions that you have. []

SENATOR SCHIMEK: Mr. Landry, could I ask you to just briefly summarize what's on this accomplishment sheet. []

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TODD LANDRY: Certainly, I can...I'll try to do that. I have been the director of the department...of this division, excuse me, for about the past year. Upon the passage of LB296 and the restructuring of the Department of Health and Human Services, the Division of Children and Family Services was created and that is when I joined the administration. We have taken several steps forward as it relates to reorganization of the department to ensure clear lines of accountability and authority. But one of the most important pieces that we have created as part of that restructuring is this new Comprehensive Quality Improvement area. And that's shown as item number two on that last sheet. This is a new area that we have not had within my division before and it is located within our central administrative office, but some of our staff are actually out in the local offices. And the role specifically that we created this unit for, and I want to point out that we did so without any additional FTEs. We did it through a restructuring of the division. It does not replace or supervise local field staff, but what their purpose is, is to oversee the quality assurance and contract monitoring efforts of the division. So that is the unit that we have specifically created in order to fill what we saw as a gap as it relates to our areas of oversight and contract monitoring and management. That is an area that we went through with the committee staff members, and is specifically discussed, I believe, in their findings in the report. []

SENATOR SCHIMEK: Yes. []

TODD LANDRY: So that is one of the critical aspects that we created as part of the restructuring. That unit is now beginning to get up and running. We have approximately 15 staff that are dedicated to that role. And we anticipate as we go forward in the future it's my hope that we'll be adding additional resources without changing our overall number of FTEs. But as we have the opportunities we hope to add more resources into those areas so we can further bolster the efforts of our oversight area. []

SENATOR SCHIMEK: Thank you. Are there any questions? Yes, Senator Preister has

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a question. []

SENATOR PREISTER: Thank you, Senator Schimek. Thank you, Mr. Landry. I appreciate you being here today. And I was particularly pleased to hear your comments when you talked about changing from private provider agreements to actual contracts for transportation. I think that does add some clarity and, I think, then does come into compliance. And rather than us having a disagreement over it, I appreciate the time and your effort in doing that. So thank you for that. []

TODD LANDRY: Sure. []

SENATOR PREISTER: The other thing, I think, you talked about the N-FOCUS system and the importance of not having duplicative kinds of inputs and saving of staff time in doing that, and I would agree. Your comment about needing to provide accountability, accessibility and documentation is my bottom line too. I think we're on the same page, that we want to make sure the taxpayers money is well spent. We want quality and return for value for the taxpayers dollars. As long as the same information is there, it matters not so much to me which system it's on. And to have it done just once, I think, it would be useful in your discussions if there were some notation, though, on the NIS system and on the N-FOCUS. So if people were looking for...there's a cross-reference or at least a way to know that this isn't everything on one, or that something isn't intentionally or unintentionally being left out. The other thing, N-FOCUS is not as easy to function on. So there's some real challenges for people. So I recognize that you don't have total control over that because that's part of the federal system. But anything to make this aspect of it a little more user-friendly in your discussions I think would be helpful as well. []

TODD LANDRY: Senator, I appreciate those comments. Certainly, N-FOCUS has a...is the federally required repository for our child welfare information, has a large number of requirements that we have to manage. It's something that I'm proud of what our IS&T

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and program staff have done. You know, right now we are in the final processes of receiving federal certification of our SACWIS system. Currently, in the country, I believe, there are only eight or nine states that have reached that level of certification. They were here in August for another review of that system. And, I believe, we're only a couple of minor areas away from doing that. And so having said that, it is a complicated system because of the level of data and the kinds of information that the federal regulations require us to put in there. And certainly we'll do everything we can to ensure that the crosswalk exists, as you referenced, and whatever we can additionally do to try to make it a little bit more user-friendly. []

SENATOR PREISTER: Good. []

TODD LANDRY: Appreciate that. []

SENATOR PREISTER: Thank you. []

SENATOR SCHIMEK: Senator Stuthman. []

SENATOR STUTHMAN: Thank you, Senator Schimek. Mr. Landry, thank you for your comments. You heard the question that I asked Mr. Arp, you know, earlier on this afternoon. []

TODD LANDRY: Um-hum. []

SENATOR STUTHMAN: I feel that...and do you feel that you're trying to address that situation so that there's going to be, you know, a paper trail of contracts? []

TODD LANDRY: Certainly. And I would like to address that very specifically. Because one of the things I do want the committee to know is that every single, whether we have traditionally called it or historically called it a provider agreement or a contract, every

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single one of those is in fact documented. We do have a paper trail existing on each of those. The other thing that I can tell you is that in every one of those cases the service must be authorized before any type of payment can be made. That does present, as you can tell with the number that we're talking about and in trying to be very responsive to the children, youth and families that we're serving, it does create a challenge to make sure that's all working in a rapid form, as is sometimes necessary in order to assure that the children and youth are getting their transportation needs met and getting to those doctor appointments, and dentist appointments, and therapist appointments, and visitation appointments, all of those pieces done in a timely fashion. But I can assure you that we do have a document...a document trail on each and every one of those. The question has been where those contracts reside, how we interpret those, and whether or not they're quote, unquote, provider agreements and contracts. And as you heard in my testimony, you know, we're proposing to and intend and fully plan to relieve that confusion by calling them a contract and making sure that they're entered appropriately. Regarding the question of paying for anything that's not provided, certainly, it's absolutely true that, as I said before, all those services have to be pre-authorized. And when the invoice or billing comes in, that's matched up against the pre-authorization to ensure that in fact that has been pre-authorized before it is done. Where we agree with the Audit Committee or the Audit Committee staff is that certainly in the past we have largely investigated issues related to those situations on a complaint-driven basis. We certainly can be and will be more proactive through the creation of our CQI unit in order to do the spot checks, the random checks and things of that nature to verify and have a good audit system in place to verify that the taxpayers are getting their dollars worth. []

SENATOR STUTHMAN: Thank you, Mr. Landry, because the answer you gave me is the official paper trail, which I wanted to hear was being done. And I feel very confident now that, no matter what service is provided, there is paper to back it up. []

TODD LANDRY: There is, there is an agreement to back up each of those. In some cases, you know, those are complicated, long contracts, in other cases they are a

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simple one- or two-page agreements, particularly for those families and friends. That is a piece that went into effect, as you heard, 2006 with the passage of that bill. And it's something that we believe is a valid way and an important way of ensuring that when there is a safe relative or friend who can transport the state ward instead of a stranger, we want to take advantage of that. That bill allowed us to do that. At the same time it created a large number of these new agreements that we also have responsibility for monitoring and providing oversight on, and that's what we're moving towards doing a better job of. []

SENATOR STUTHMAN: Okay, thank you very much. []

SENATOR SCHIMEK: Yes, Senator Preister. []

SENATOR PREISTER: Senator Stuthman did a good job of asking a question. And I think you answered the part that I was most interested in at the very end, and that's not only the paper trail and having the documents, but the assessment of that. And not just maybe spot checking or doing it when there's a complaint, but ensuring that we're getting our dollars worth. Looking at the contracts to see did they actually do what the contract implied and did they do it in a safe and effective manner that, in this case, protected children who are being transported. So it's not just is there paper. And Senator Stuthman is right, we need that. But we need to ensure that in transportation instances the kids are transported safely, that the transporter who's got the contract is actually doing it, not subcontracting out. All of those kind of things may or may not come to light if it's only complaint-driven. So we and I think the audit staff is saying we need to do a better job, DHHS needs to do a better job in making those determinations and overseeing those contracts. So I just wanted to emphasize that. I think you talked about that in your quality control at the very end of your answer to Senator Stuthman. But I'm most concerned, beyond the paper, of the performance that would be reflected on the paper. []

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TODD LANDRY: And, Senator, I appreciate your comments. And as I tried to indicate, and I'll try to be a little bit more specific in my answer this time. I absolutely, you know, agree that we need to do a better job on those aspects of it. As I said before, we readily acknowledge that in the past that has been a complaint driven process which is not the level of proactivity that any of us would like to have, and are working very concerted now with this new unit to ensure that we have those random spot checks to ensure not only that the service was provided, but that, yes, the service was provided safely. You know, we have literally tens of thousands, I think in the last year it was some 27,000 plus instances of transportation occurring with our state wards. So we have a very large number of those. And one of the things that...and the vast majority of them, the vast majority I believe are done safely and appropriately. But certainly whenever one of those is not done safely or appropriately, then potentially a child or youth is in harms way, and we need to make sure we address those in a proactive manner. And that's what we're attempting to now do. []

SENATOR PREISTER: Thank you. []

SENATOR SCHIMEK: I'd like to follow up on that line of thinking just a bit because I just got an e-mail here late yesterday or this morning some time from a woman who lives in Beatrice who was taking care of a relative, a child of 3. And I'm not going to go into all the detail. And I will follow-up with your staff. But the allegation was that two, she calls them girls, I assume they were at least young women, came to their house to pick up this three-year-old child to take him to the Lincoln Police Department for questioning. And this woman was pretty upset because, first of all, she'd never seen these people before, and there was another I guess you'd call them caseworker at the house anyway for another purpose. And that person couldn't even go with the little three-year-old boy to Lincoln with these two young women. The upshot is that he went, he was scared to death, they got him back later than they said they would. So the point I'm wanting to make other than following up to see if this really did happen, that's a horrible story if you read the whole thing. The point is that sometimes it's not just the safety that's at issue

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here, it's the wellbeing of those children and whether or not they feel comfortable in the situation in which they're placed. So I, too, am concerned about the quality control. And hope that we can come back and take another look in six months or nine months or whatever and see that, yes, there are some better quality controls put into place. []

TODD LANDRY: Sure. And, Senator, I appreciate that and would very much like to know the details of that,... []

SENATOR SCHIMEK: I will get it to somebody. []

TODD LANDRY: ...you know, as we go forward so that we can in fact look into that and address those concerns. One of the things that I have certainly learned very clearly in the past year is that in many, or at least in some cases, and I would go so far as to say many cases, sometimes there may be some reasons that...for something that may look very suspicious and strange, there may be some valid reason behind it that was the cause of it that sometimes may not be able to be prevented. What I have also found though is that in many cases they can be prevented and that there may have been some type of a communication failure, communication gap, or some type of notification did not occur as it should have occurred. And those are the exact kinds of specific situations that when we're made aware of them, we can adequately address and make sure that they don't happen in the future by changing either our practices, changing our policies, or making sure that our training very clearly addresses those kind of situations. So I would appreciate very much the opportunity to be able to look into that and respond to those concerns. []

SENATOR SCHIMEK: And you notice, I didn't say it was a certainty. I've been in this business for 20 years and I know that sometimes people's stories are off kilter. But there's enough substantively in this one I think it should be looked at. []

TODD LANDRY: We certainly will, certainly will, Senator. Thank you. []

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SENATOR SCHIMEK: One other question, that is in your comments you said this type of arrangement, if approved by DAS, meaning the arrangement of using N-FOCUS. []

TODD LANDRY: The arrangement of, I believe specifically what I was trying to refer to there is the arrangement for friends and families, those friends and families contracts to have an exemption so that we don't have to duplicate thousands of those entries into both of those systems on the same level that we have to do for all the other contracts. []

SENATOR SCHIMEK: I'm not sure if that would meet statutory requirements. []

TODD LANDRY: And that is part of why we're going to ask for the exemption so that DAS can do a full analysis as opposed to our analysis. So that they can analyze that as well. And to find out whether they have the authority to do that or it's possible that if we want to do it and agree that it's a good idea, we may have to come in and ask for a statutory change for that specific area that we're referring to. []

SENATOR SCHIMEK: Okay, thank you very much. Seeing no further questions, thank you very much for being with us today. []

TODD LANDRY: Thank you. []

SENATOR SCHIMEK: We appreciate it. Is there anyone else from DHHS who is going to appear, Mr. Landry, that you know? []

TODD LANDRY: I do not believe so. []

SENATOR SCHIMEK: Okay. Carol. []

CAROL STITT: Senator Schimek, there were two staff who worked on this a lot with me.

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Would it be okay if the three of us were here together to... []

SENATOR SCHIMEK: Certainly, as long as you identify yourselves when you're speaking. Okay? []

CAROL STITT: (Exhibits 3, 4) Okay. Senator Schimek, committee, my name is Carol Stitt. I'm the director of the Foster Care Review Board. And I would very much like to thank the committee for focusing on this area and also noticing us so we could get here today. We, as you know, have had a number of concerns for a number of years about this transportation system. And the way we would just like to brief the committee, and we will be brief, is to speak with you about really...we're really going to focus our testimony on Section 5 of the report. We're very appreciative of what you and your staff have identified here with some of the accounting issues. And we certainly don't mean to underestimate that. But I think what our real concerns are, are that while Nebraska continues to move into contracting child welfare services, we really do not have a system in place that we at least, of the Foster Care Review Board, have identified to this point. We don't mean to take away from the Q-A system that Mr. Landry's referring to. But I think the fundamental issue that we come back to is, where do we take this issue? When we have a critical issue, and there are many of them that cause a great deal of frustration to the foster parents we interface with as well as the children, it's very hard to figure out exactly in that system where you go. And I think that many of you have heard me say, when the case arises to what we believe is abuse/neglect, and you talk to the worker, the worker will say, well, call the hotline. You call the hotline and the hotline will say to you, well, talk to Resource Development. And then is the case is open they say, well, go to, you know, back to the worker. And what I'm really hoping the light that you have shed on this is that what we'll figure out is exactly where in this system we're able to take these complaints to get a log. And I think you're absolutely on the right track, Senator Preister, saying how are we even keeping track of these issues. When they come to light where are they landing, who is responding, and how timely is that response? I can tell you that in the last let, in trying to close in on certain contractors

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there were a number of people who called. And I provided for you the actual log that Don Arp asked us...we sanitized the case name so that you can go through and see who the issues were, because that's what we were asked to do--identify those areas. And you'll see some repeat issues. And that is a real concern of ours. I think the way we have designed this system there was a question that I think is the \$50 question for the Legislature, and that is, does this make sense to contract all this services?

Transportation and visitation is a fundamental part of case management. And by dividing it out and having this litany of people involved, we are not only losing evidence, but we're losing a lot of money. I mean this isn't cheap. The system that we've created right here is not very cheap so what...or, you know, to us makes much sense. So what we are really advocating, and that's right out of the bag, is that we tie this to however we decide to do case management. If we decide to do case management by contracting out to a whole bunch of agencies then I believe it's critical that we tie transportation and visitation to those agencies so you don't have this spread out. I'll never forget when I sat down with Senator Schimek (laugh) and I was really charged up about the number of people that some of these children, I believe it was 111 children, had between 4 and 35 drivers. And I was just talking to her and she said, wait a minute, you need to move up here and look at the fact that you have no documentation for 147 of those other children. And I remember just being sort of stunned because that is where we get into trouble with trying to move children into permanent placements is we have...we're paying for this service, there's absolutely no information about what's happening on those visitations in the child's file. And what we would really like to do, the three of us, and I would just like you to know Nikki Swope did really the major lifting on this project with her supervisor and a reviewer in Omaha. When we were asked to bring these cases up they are really the ones who dug in and did the chart and did all that work for us. But what I really want to emphasize are incidence...there is added stress and trauma to these children. There really...I think you hit it on the head, Senator Schimek, when you said, what about the children, what about these cases. And we encounter that when we review a case we have to call, through federal regulations, the placement. And there's an awful lot of cases that the main frustration is with the transportation providers

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or the visitation monitoring. And in child welfare nothing is more important than how visits are going. That determines every recommendation we make. It determines how the case should proceed. If the parents are not able to make visits, you're not able to put this situation back together again. And your point, Senator Schimek, is you know out of a little over 300 children we don't even have the documentation on 147 cases. So while you're talking about entering contracts on the, you know, that's incredibly important. And I don't mean to take away from that, what we're talking about is when you review the file there's no information on what happened, or there are so many drivers you can't figure that piece out. And, you know, both of these staff have had excellent revelations. Cheryl is a former worker. And I went to her one day just saying, could you explain to me why so many children are left with therapy, what happens with that. And that's really what Cheryl will be talking to you about. So what I would really like to, I guess, focus the committee on is the risk to children, which I think your report did an excellent job of saying these missed visits and these missed transportation or children waiting or children being left, you know, that occurs and it occurs far too regularly. We don't have, as you guys know it's not by mandate to keep track of this. We did at the request of some senators add it to that special study we did just for the birth to age five children. And it was very alarming what we found out. So what I would like to say to you is thank you and thank you to your staff. And I will turn it over to Nikki for her to talk to you more specifically, as well as Cheryl. And obviously we're available for questions. []

SENATOR SCHIMEK: Okay. We will hold the questions until all three of you have finished. []

NIKKI SWOPE: Okay. My name is Nikki Swope, S-w-o-p-e. I am employed as a review specialist for the state of Nebraska Foster Care Review Board. As part of my research into the transportation provider issues, I went in to look at what kind of training and qualifications, what are the very basic requirements that a transportation provider needed to meet in order to qualify. And I found that, you know, the transportation driver

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had to be 19 years old and have a valid drivers' license and be able to have proper car insurance. As part of their contract performance they were also required to...sorry, just lost my train of thought. []

SENATOR SCHIMEK: It's okay, we all do. (Laugh) []

NIKKI SWOPE: As part of their contract requirements they are also not allowed to smoke in the vehicle, use proper car restraints, and not to have any communicable diseases that could harm the welfare of the children. Those are the only requirements to... []

SENATOR SCHIMEK: And not have any alcohol. []

NIKKI SWOPE: ...and alcohol, drugs and alcohol, smoking, car seats. And what we found out that time and time again we'd get reported complaints about these issues already. But we don't look further into these other issues that have such a negative psychological impact on the children. These children have undergone such traumatic experiences already in their short little lives. They've been removed from their parents' homes. They might be experiencing several different placement changes, several different case manager changes, and then we expect them to get in a car with a stranger to go to different places. These providers are not trained in how to deal with these children's emotional issues when...after these appointments or to and from these appointments. They're not trained to deal with a child who has just gone through a therapy session or just had a visit with a biological parent they may not have seen for a while and then they're getting into a car with another stranger and they're transported back to another strangers home. I looked at...I talked to some former employees of some of the transportation providers and asked, what were the basic training requirements. What I found out was they usually had about a 40-hour classroom-type training, there was no really hands on training. There was little to no training on how to use or install a car seat in their vehicles. Most oftentimes they were not provided a car

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seat, so a lot of these workers who don't make a whole lot of money are going out and buying their own car seats, which means they are getting them at Goodwill or garage sales and that sort of thing and using them in their vehicles. Most of them had no idea really how to install a car seat. We've heard complaint after complaint of the transportation provider showing up at day care centers or different places with no car seats in their cars at all or even heard of a provider showing up to pick up five children in a car that only holds four. So obviously there could not be enough car seats or seat belts available for all the children in the car. When I was talking to employees, I also asked, you know, what their other training was. And the training is kind of inconsistent across the board from the different agencies. I think it kind of depends, some agencies are better at training their employees than other agencies. And the most highly trained employees are the ones that also provide supervision along with the transportation. So some of these employees they were not trained in CPR or any sort of medical first aid. They are transporting children that are medically fragile sometimes. Sometimes that's the reason they were removed from their parental home is for medical issues. They also don't have a lot of experience in working one-on-one with children. This is a job that's a lot of times fresh out of high school. They do their 40-hour week and then they're set out there on their own to provide this invaluable service to the children in our care. And we're talking about...there is, I think, in the Performance Audit Report they're talking about over 100,000 transports are performed each year. So we're talking about a lot of time that these children are spending in the care of these transported...or transporter contractors. There is a lot of different issues outlined in our report that we did prepare for the Performance Auditor with a lot of different examples. But I'd like to share one that is outlined from my testimony. There was a seven-year-old and a three-year-old children that were transported 200 miles to go and visit with their mother. The driver arrived there early, didn't want to wait. Left the children with the next door neighbor who we found out later was a convicted sexual offender. And then didn't call the mother to say that this was...where they were or that I left the kids off early. And so the mother came back home, didn't know where the children were, were waiting for the visit and then find out they were at the home of the next door neighbor, where that was a child sex

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offender. These incidences are...we hear about some of the major ones that happen in the news. We hear about the drunk drivers, we hear about some of these major sexual assaults. But what we don't...what's not understood is that this is so systematic and widespread. The problems with transportation, this is over and over and over again. When I started picking up the phone to contact people that wanted to provide their input for this, they were...kept referring me to the next person, to the next person, the next person, because they all had all these experiences to share. There's a teacher that I spoke to that works for the expelled student program who said that daily the children are being dropped off late to school, and so they're missing their first classes, or they're not being picked up after school. These are children that are in the state's care for usually law offenses, or those sort of things. They should not be left unsupervised on school grounds for an hour, hour and a half. And the teacher said that she has actually the phone numbers for all the different transporters taped on her phone, because she has to call them so regularly to say, where are you at, are you going to come pick up these children. So it is just so systematic and people are so frustrated. And the level of frustration doesn't end there, it also goes to no one knows where to turn when there is a problem. The...it's, you know, 5:30. Who do you call when the transporter doesn't, you know, pick up. You might be able to call the agency, but you can't really make a report anywhere else. Or sometimes it just stops at someone's desk. So I don't know that there is clear understanding of how problematic this issue is. []

SENATOR SCHIMEK: Thank you. Would you say your name again. []

NIKKI SWOPE: Nikki Swope, S-w-o-p-e. []

SENATOR SCHIMEK: Thank you. []

CHERYL JOHNSON: I'm Cheryl Johnson, it's C-h-e-r-y-l, and Johnson J-o-h-n-s-o-n. I'm also a review specialist with the Foster Care Review Board and I was also previously a case manager with Health and Human Services. So I kind of have the dual

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perspective of having lived through it and now also continuing to work with it and follow up on it. You know, as a review specialist a little bit of our process is by federal regulation we do have to contact the child's placements. We are calling foster parents, we are calling group homes to check on the child's progress, their wellbeing, making sure they're getting their services. And like Nikki said, frequently, frequently we get the reports of transportation issues, visitation issues, kids not getting picked up, kids not getting dropped off in the right places, the right times. It really is across the board. In addition to getting reports from foster parents, we also get reports from biological parents. You know, they get invitations to attend our board meetings. They have the same opportunities to express their concerns. And they report the same concerns. We also make collateral contacts with school officials, therapists, day care providers, really anybody that has contact with this child we can call them and gather more information if we need it. And not surprisingly, all these people have dealt with the same issue at some point or another. A lot of our reviews that we end up doing end up coming from special requests. People call us and say, you know, I'm working with this child, this is a problem, can you look into it. And so we will put it on our list. We'll review and we will follow up again with a lot of the same concerns. Another little piece that I was asked to talk about is transportation regarding therapeutic services, because that is a little bit different than just transporting with regards to visitation and other things like that. For therapeutic transports that is something that originates through the therapist. It a Magellan Medicaid managed care, so the therapist has to make the request to Magellan, who approves the transportation, passes the request on to the transportation company, who then hopefully picks up the child and does the transport. Time and time again somewhere in that loop the process gets dropped. One example that we had pulled was a little eight-year-old boy that was picked up to be taken to therapy. The transportation provider did not walk the child into the office building, simply dropped him off outside and drove off. The child proceeds into the building where it's learned the therapist was sick that day and the office was closed. There was no way for this child to even get into the office. He had to wait, eight years old, by himself for an hour and 15 minutes before his foster parent came and picked him up. And my first question, when I

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read this example, was, well, where was the return driver. Because most therapy appointments are 45 minutes. So if he was taken to the appointment, he should have been picked up from the appointment. And that driver didn't even show up either. So that was, you know, failure on both ends. A personal experience, when I was a case manager, I had a 14-year-old child, weekly therapy appointments. A lot of issues. Child had been through so much in her life. And for three weeks straight nobody came to pick her up for therapy. And the therapist would call me, you know, after...she'd wait a half hour, 45 minutes, through the whole session. She'd call me and leave a message saying child didn't show up again today. I don't know what the problem is. I faxed my authorization to Magellan, I called Magellan, they said they faxed it on to the transportation company. I called the transportation company, they said they never got it from Magellan. Magellan says they sent it. They said they never got it. It was round robin. And ultimately this child, for three weeks straight, did not make it to her therapy appointments. So, you know, it is really an ongoing problem, but ultimately our kids are paying the price for it. []

SENATOR SCHIMEK: Thank you, Cheryl. Are there questions from the committee?
Senator Stuthman. []

SENATOR STUTHMAN: Thank you, Senator Schimek. Thank you all for your testimony. Carol, have you ever hired one in the foster care, an individual that was a foster child at one time and became a foster teen and then moved on to work in society? Have you ever hired one of them? []

CAROL STITT: No. []

SENATOR STUTHMAN: You know, I think that would be a good experience if a person could hire one of those. To me, you know, even listening to you two, you know, I think, you know, what if they were a child that were in those situations. Because, you know, those young children having to wait, feeling abandoned. I mean that has got to be a

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scar in their mind forever. []

CAROL STITT: What is so frustrating is, you know, when you read why these kids came into care, and what happens a lot of times is they may have the appointment, unlike what Cheryl described, and nobody picked them up. And they've just talked about being abandoned, abused. That's the point of therapy, and they walk out the door. That's why I went to Cheryl and I said, Cheryl, walk me through this. Because of all the complaints we get, I mean we certainly have a lot of them, what lands to be a lot are the ones with the therapist. So I said, why don't the workers keep track of it? She said, well, Carol, workers don't have anything to do with that. And then we started talking about when the...the old when I was, but when I was...the first way I came into the system was a case aid. So I actually provided the transportation. You were assigned to a worker and that's...you know, and they would say, and Jimmy needs to go to therapy, you wait for him, you take him back. This is what's being worked on, this may be what's going on and you knew what to expect. And your job was to stay there with the foster family, to talk to them, to tell them when the next appointment was, all those things. And they're actually doing that in two offices--in North Platte and the Scottsbluff ICCU unit. And we have far fewer complaints when it's done by an employee onsite. It's not perfect. I'm not here to tell you that it's perfect. But I think tying that is a very important consideration for the committee. []

SENATOR STUTHMAN: I think also, you know, like this individual that didn't get to therapy for three weeks, I have a daughter-in-law that's a speech pathologist and then she has no-shows, but she gets paid. So, you know, the agency, HHS is paying the bill for those three weeks of therapy treatments and there's nothing accomplished. I mean it's really lost. So we're paying the bill, but because of the fault of the transportation it's not happening. []

CAROL STITT: That's right. Well, I think the whole thing is it's sort of a little chaotic. And I think, you know, there are some agencies who do a great job, like Nebraska Children's

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Home. Their foster parents who talk to us don't have as many of these experiences. So I think as the director of the Review Board I want to say that, but I also really want to emphasize to this committee this isn't cheap the way we're doing it. And it's not just the missed appointments, and it's not just what we're paying contractors. As Senator Schimek pointed out to me, we're losing evidence. We're losing evidence about the direction these cases should take. And when you look at when our system really began to decline, it was when we began contracting. We merged everything. We put in place N-FOCUS and we contracted with no oversight. And it's clear as a bell. You look at those statistics, 1995, and when the system, it was just very chaotic. And that's what we're trying to sort out. You know, we do have recommendations for these improvements. And again I wanted to acknowledge that DHHS is building this quality assurance system. But what I wonder is whether or not we're organizing this in a way that makes sense. For the population of children we deal with I don't think it makes sense to have transportation providers over here, visitation providers over here, case management over here. And you know, how this whole structure works, I think you guys have a great chance to weigh in and evaluate that and just say, you know, what is this really costing us. []

SENATOR STUTHMAN: Yes, thank you. []

CAROL STITT: Yeah. []

SENATOR SCHIMEK: I think that's an excellent point. And I hope that people are listening who are in this room today. It's always worried me about doing things through private contractors, no matter what agency it's in, because gradually it costs more and more. And they're not really accountable. I just...in this instance we're talking about a very vulnerable population. So I hope that some people are listening. []

CAROL STITT: Thank you, Senator Schimek. And thank you, it means a lot to us that you guys took this on. []

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SENATOR SCHIMEK: Um-hum, thank you. []

CAROL STITT: Thank you. []

SENATOR SCHIMEK: Appreciate it. Are there others who wish to testify? Please come forward. May I see the hands of anyone else who is intending to testify. Thank you. Welcome. []

JOHN SEYFARTH: Good afternoon, Senator Schimek and committee. I am...my name is John Seyfarth. The last name is spelled S-e-y-f-a-r-t-h. And I am a Foster Care Review Board local board member. And, I guess, what I wanted to say here was I certainly agree with what the last testifiers, because I've seen it here. You know, in our boards we see it firsthand what happens with foster parents. Foster parents come and testify to us or other people come and testify to us, moms, things like that, or (inaudible) or whatever it happens to be. And we hear about transportation problems all the time. One of the big problems I had, and I don't think anybody has mentioned this yet, is that there's a lack of a statewide identification system for our transporters. So you know...and I also know a few school psychologists that deal with infants and also some special ed teachers that deal with transportation, because they have to either put them in a car...parental visit or they receive them back. So we see all this kinds of stuff like that. But in a lot of cases these people have these transporters come. They don't know who they are from Adam, because there is no statewide standardized transportation identification system. And just like some of the other people have said, there's lots of problems with no restraints. We've had one of the psychologists that I know real well has said there's been a couple of instances where the infant has been in the front seat with no restraint at all delivered to school, things like that. Or they come to the school or they come to whatever, foster parent and the foster parent looks in the car and there's nothing in there, there's no equipment, no car seat, no nothing. And, of course, they don't let them go obviously for obvious reasons. So we still have a lot of problems in that

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area. And then the other part is, as she mentioned, the emotional impact. These kids have gone through so much trauma just being ripped from their home and maybe being ripped several times for several placements, and then all of a sudden they go with a stranger again to or from a thing. And a lot of times...most of the time the people that I have interviewed and are on our board or the people that I know are saying that it is infrequent that they ever see the child come back with the same person that he went out with or she went out with. So those are the kind of things I want. But the additional thing I wanted to talk about was the identification thing, I just made a point about a minute ago. We just don't have that. And so...and like I say, the other problem is timeliness, particular with toddlers and infants you have feeding times and things like that. And if they're late, maybe the kids (inaudible), and then you get all made because, well, you can't let the kid go when (inaudible). And you know we have that kind of a problem as well. So that's the other thing that's very important is timeliness. []

SENATOR SCHIMEK: Thank you, Mr. Seyfarth. Senator Stuthman, would you like to ask a question? []

SENATOR STUTHMAN: Yes. Thank you, Senator Schimek. There is one thing that I'm very interested in and it's the fact that transporters, it's probably a different person that takes them all the time. I would like to see in the future where the caseworker would know the transportation company and could request Bill or John or Dennis to transport this individual so that there could be some sense of security for this small child when they're transporting that, you know, I've seen him before, I've seen her before. Otherwise, you know, these small kids, like you said, they're pushed and pulled around. And when they see another individual and you're the only one in the vehicle with that person you're almost scared to death. []

JOHN SEYFARTH: Absolutely. []

SENATOR STUTHMAN: And if we could hopefully some time get that communication

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between the caseworker and the transportation company to request a certain individual at a certain time, that that one would be designated to transport that kid. And, you know, could do it on a weekly basis or monthly basis or whenever they need transporting. []

JOHN SEYFARTH: Even better than that would be if we...if they looked into the cost effectiveness of having case aides to do transportation for you that actually work for that caseworker. []

SENATOR STUTHMAN: Then...because that individual is working with that... []

JOHN SEYFARTH: That individual would be...then you wouldn't have the impact, the emotional impact that you would have on a child that way. []

SENATOR STUTHMAN: Yeah, yeah, yes. Because then... []

JOHN SEYFARTH: And that's what I would love to see. I know some other states do it that way. []

SENATOR STUTHMAN: And that's a sense of security for that child. []

JOHN SEYFARTH: Yes, absolutely. []

SENATOR STUTHMAN: Yes, thank you very much. []

SENATOR SCHIMEK: Thank you for being with us today. []

JOHN SEYFARTH: You bet. Thank you for letting me testify, appreciate it. []

SENATOR SCHIMEK: I think we should thank you for the two books that you sent us as well. []

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JOHN SEYFARTH: Well, those books are, in my opinion, I read them in three days, both of them. And you read about the success of Andrew Bridge there and how he got through it. And one of the statistics that's on his Website is very interesting. And what I'm talking about is a book called Hope's Boy, by Andrew Bridge, and who aged out from the foster care system in California. One of the statistics on the Website is that of all the kids that age out of the system in the United States, only 2 percent ever college degrees, 2 percent. That's kind of a telling statistic. []

SENATOR SCHIMEK: Yes it is. Thank you very much for being with us today. []

JOHN SEYFARTH: You bet. []

SENATOR SCHIMEK: Next testifier. Good afternoon. I about said good morning; (laugh) it's a little late for that. []

SEAN SCHROLL: I'm somewhat different than a lot of these speakers that you've had up here today. My name is Sean Schroll. []

SENATOR SCHIMEK: Would you spell both names, please. []

SEAN SCHROLL: Sure. Sean, S-e-a-n S-c-h-r-o-l-l. Probably the biggest way I'm different is I'm not a very good public speaker and I stutter a lot. So I'll...my position is I'm currently the director of marketing and chief financial officer for Prince of the Road Transportation. So I'm kind of here sitting on the other side of the shoe today. I guess one thing I've learned today throughout this whole hearing is that a lot of the different things that I'm hearing are relatively around transportation and what transportation is doing wrong. I guess what I see from what I deal with day in and day out, I've done those transports. I've been on the road, I've been with those kids. And in fact we've been in business since 1997. And our motto from day one is compassion makes a world

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of difference and treat people like we want to be treated. And I truly believe that our...I can't speak for every company out there, but we have developed policies around what the department is needing and what these kids, families and foster parents and counselors are needing. So I'm hearing a lot of things today that are things that we have tried to specialize in, but apparently I'm hearing things that we think we're doing but we haven't been addressed with them, like example if...the last one I just heard. If a child is riding with a certain driver, you would like to see where they could ride with that particular driver as often as possible or possibly for good. We have very minimal, if I would say maybe one a year of requests to have that same driver take that same client. Okay? So some of these things that you're hearing, there's two sides. Basically everything I've heard today there's two sides to every bit of that. There's also problems within the fostering system. There's problems within counseling. We hear different problems. We're the transportation company. Okay? As far as seat belts, our company has focused...daily we're looking to improve transportation in the state of Nebraska. Policies are renewed, policies are reviewed. We have quality assurance. We have all these things that we think the transportation company needs. Does every transportation company do that? I don't know. But I am here to defend what we do as a company for transportation in this state. We do work with counselors. We actually do hear good things about our drivers. They're glad that we had a driver do this. We're glad your driver went out of the way to do that. We actually have restrictions on us, you know. We've got these kids that we...hey, if you're a kid, you get picked up from counseling, a full day's worth of counseling. Go back to your young years when you were coming out of school, you want an ice cream cone. Wow, that would be great. Well, we have drivers that go and do that. We get a call and management, upset at our driver because they went two blocks out of the way to get this kid an ice cream cone. So what do we do? We eliminate that because that's what the state does not want us to do. So everything that we do is based on what...not what may seem right to the child or the family, but what feels right to the state and the counselors and the people involved with that. So there's...it seems like you also have to take into account how the kid's really feeling. And are our drivers trained? Yeah, we have training for our drivers. And do they have

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experience? Well, most of them, yeah, they're parents. They had kids, they know how to treat kids. And their kids went on to college and their kids are successful. Okay? So there's...what I'm trying to get...point across is maybe there are companies out there that don't go that extra mile, or aren't putting forth that extra effort. To defend what Prince of the Road does, and I know there are companies out there similar, but are really doing everything they possibly can to please the counselors, the parents, the foster parents, the children, anybody involved with that transport, because that's the part that we deal with. We've got to get people from point A to point B in a timely, safe, economical manner. We're also working on a system relative to programming to where you will be able to account for that, where counselors and caseworkers will be able to log onto a system and see where that client was, was that transport completed. So we actually are working on a web-based system as well to account for some of these problems that you guys are bringing up, which are legitimate concerns. We once tried this, seven years ago, to implement a transportation system over the Internet. But the government wasn't...the state wasn't ready for it at that time. And I think I'm seeing more and more where maybe now may be the time. It's just a matter of a few changes that we have to make to make it accessible to caseworkers and clients and was that transport completed, was it paid for. Every transport we do there's a signature, a time and a date of an adult for those transports. So we do have a tracking system. We're accountable, we have a paper trail, we're safe, we're economical. And I've also heard...another issue that I've heard is it may be cheaper to have those caseworkers or counselors go do those transports themselves. Kind of misleading I believe. Transportation companies for the state of Nebraska are paid for loaded miles only. They're not paid for dead miles, they're not paid for waiting time. I do believe that if a case aide or a caseworker went out to do this actual transport, I'm sure that they're going to be paid for that time that they're with that...through that whole process. They're going to be paid for every minute that they're there. Transportation companies do their job. And our company does make a point to go to the door and get signatures, dates and times. But that's just one point I wanted to throw out is I don't think it's probably apples to apples in that regard. And I am open for questioning. That's probably the best thing...(inaudible) the best way I'll do up

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here maybe. (Laugh) []

SENATOR SCHIMEK: Well, first of all, thank you very much for being here... []

SEAN SCHROLL: Well, thank you. []

SENATOR SCHIMEK: ...because it is important to hear all sides of an issue. []

SEAN SCHROLL: Thank you. []

SENATOR SCHIMEK: And I didn't hear one single stutter. []

SEAN SCHROLL: Well, that's unusual. []

SENATOR SCHIMEK: And I think you probably have done this before. []

SEAN SCHROLL: No, that's unusual. Let me tell you that's very unusual. []

SENATOR SCHIMEK: I think Senator McDonald has a question. []

SENATOR McDONALD: I have a couple of questions. The first one is, how many drivers do you employ? []

SEAN SCHROLL: We currently have 105 employee drivers throughout the state, that's statewide. []

SENATOR McDONALD: And what kind of screening do you have as an employee, that you would have for your employees? []

SEAN SCHROLL: We do the driving record, the state criminal history, child abuse and

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neglect, and the sex offender registry. Another thing about...I'm not the COO I was prior, but we recently hired on a new chief operating officer, which is very knowledgeable in law enforcement, was with law enforcement for 25 years. And we have...I can't say we've changed anything, but our knowledge within the law enforcement background and the background checks has been I don't know if it's even gotten any better, but it's priority for us. We go above and beyond...that was another thing, thank you. But what I heard today is the three that were up here had very good points to make. One of the things that I said is they went in and seen what was required of a transportation provider to transport clients or to contract. And she listed off, you know, they can't drink, they have to be over 19, your general, you know, what she said, the general...hardly any requirements. I think one thing that may help the transportation providers is set those requirements. What should they actually be responsible for, what requirements should they meet in order to be able to transport these people. I think there's a lot of companies that are contracted maybe, maybe not, but that don't have...meet a lot of those requirements that the state would require, the parents would require, the counselors require. I think that would help one thing if there is some requirements that have to be met. Did I answer your question? []

SENATOR McDONALD: Actually, I have two questions. []

SEAN SCHROLL: Okay. []

SENATOR McDONALD: The second question is looking at the concerning instance with contractor transportation for wards of the state, there are three separate incidents. One, May 6, 2007, happened in Buffalo County. An employee of Prince of the Road was charged with felony first degree sexual assault of a child he was hired to transport. He was accused of having sexual intercourse with a girl three times on 5-6-07, including once at a gravel pit and it goes on. Second time, that's '05, or excuse me, 5-07. We have January 16 of '08, Omaha to Ogallala, driver was...allegedly sexually assaulted a 13-year-old girl, a child he was transporting from Omaha to Ogallala. Happened again,

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this is...we've got '07, we've got '08, actually December '06. York, an employee of Prince of the Road asked the 16-year-old girl that he was transporting if she would have sex with him. I don't know if your requirements are strong enough. I mean this is discerning to me. []

SEAN SCHROLL: It is discerning to me too. And those... []

SENATOR McDONALD: I don't like this. []

SEAN SCHROLL: The second we hear about those, it's investigated. If it's founded,... []

SENATOR McDONALD: It's three times,... []

SEAN SCHROLL: ...they're gone. Three times. []

SENATOR McDONALD: ...it's in '06, '07 and '08. That's once a year. []

SEAN SCHROLL: Three? Okay. []

SENATOR McDONALD: That's entirely too much. []

SEAN SCHROLL: Yes, exactly. I agree with...I agree 100 percent with what you're saying. Okay? The number of transports we do a year it probably doesn't mean anything to you. But we do a lot of transports each and every year. Now, I think if we (inaudible)... []

SENATOR McDONALD: Are those drivers still with you? []

SEAN SCHROLL: No, no they're not, they're not. In fact that's another thing that comes out of...there are some things that we would like, as a transportation company, I think

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there's a communication gap between when there is something that is an issue. Maybe go to the transportation company first to find out what actually went down and what...how it can be resolved a how it can be eliminated for future...from happening in the future. Anyway, what I was getting at is I think in the...you picked up three in the last three years of a lot of transports. Now I think there's a lot of similar issues that go on in every industry, whether it be counseling, whether it be foster parenting, whether it be parenting, whether it be day care, whether it be Legislature, there is always incidents that happen. You can have no control. You do your background checks, you do everything possible, you train them to not have that happen. I guarantee you that me being a founder of Prince of the Road, an owner of Prince of the Road, previous chief operating officer of the road...of Prince of the Road did not want that to happen. []

SENATOR McDONALD: Well, I'm sure, I understand that. []

SEAN SCHROLL: I am...I'm far more upset than you are. That was my company, but that happened to it. That is not something I want to see on the news. It's not something I want to see happen to that child. It's not...that driver is...what could you...if anybody here could tell me what we could have done, what screening we could have done to eliminate that from happening, that would help me and I think that would help everybody in this room make their business a better business all over the world. And the world, nobody wants these things to happen. And it's made us a better company, it has made us a better company at the expense of a child, I can't...I have no control. And I do not want that to ever happen again. Will it? I don't know, but we're taking steps to make it even more secure so that it doesn't happen. But, yes, you approached me perfectly. It's upsetting and we're both equally upset. We're all equally upset. But did that answer your question? I kind of ramble too. I forgot to add that, add that in there. []

SENATOR McDONALD: Thank you. []

SENATOR SCHIMEK: Senator Stuthman. []

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SENATOR STUTHMAN: Thank you, Senator Schimek. []

SEAN SCHROLL: Yes. []

SENATOR STUTHMAN: Sean,.... []

SEAN SCHROLL: Yes. []

SENATOR STUTHMAN: ...I want to thank you for giving us your input. Because, you know, we are very open-minded up here and want to hear, you know, both sides of the story. []

SEAN SCHROLL: Well, thank you. []

SENATOR STUTHMAN: And I think what I've learned from your statements is that, you know, if there was a little bit better communication between the caseworker and the transportation company as far as getting the same person to transport, it is possible then. []

SEAN SCHROLL: It is possible. []

SENATOR STUTHMAN: It is possible. I mean, there are certain individuals that need to be transported. I'm sure they feel more accepted by some people rather than others. []

SEAN SCHROLL: Exactly. []

SENATOR STUTHMAN: And it wouldn't take much at all for a caseworker to say, hey, I want Bill to come and transport Jill. []

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SEAN SCHROLL: Exactly. And some...every office is different throughout the state. And some operate different. Some have different things that they like our office to do and some have...and we try to meet all those different things. But the more the offices work with us as to what their needs, the more we try to accommodate those and make those things happen for them. []

SENATOR STUTHMAN: And I also want to thank you, it's very important to me that you as an owner of a company, the person...it's coming right from your lips. It's not hearsay from someone else or anything like that. That's very important to me. []

SEAN SCHROLL: Well, I appreciate that. Thank you. []

SENATOR STUTHMAN: Thank you. []

SENATOR SCHIMEK: Mr. Schroll, I'd like to follow up with a question or two. []

SEAN SCHROLL: Sure. []

SENATOR SCHIMEK: And I'd like to put Mr. Landry on notice, too, that I'd kind of like to get him back up here. It's a question that had occurred to me after you left a minute ago and it deals with this topic. But do you just do the required state of Nebraska checks, background checks? []

SEAN SCHROLL: Yes we do. And then... []

SENATOR SCHIMEK: You don't do a federal background check? []

SEAN SCHROLL: We don't do a federal, but we do, you know, if there is really...I'm really not the exact person to be doing this. This is where our COO does actual follow ups on that, he's got the law enforcement. But if there...I guess I can't even give you a

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good answer on that. But I do know we don't do the 50-state background. []

SENATOR SCHIMEK: Okay. []

SEAN SCHROLL: We do the Nebraska criminal history check. []

SENATOR SCHIMEK: If I had your company and I'd had those three incidents happen in my company, I'd insist on it. I mean, I don't know how expensive it is, so I...you know, not taking into account anything else except for the sake of my own company... []

SEAN SCHROLL: Right. And on that... []

SENATOR SCHIMEK: ...and for the sake of the children I would insist on that 50-state check. []

SEAN SCHROLL: And I'm not sure I gave you a 100 percent correct answer. I will...I've got some documents I brought today. []

SENATOR SCHIMEK: That's okay. []

SEAN SCHROLL: And I will get...I'll have Jim even follow up with you on that. []

SENATOR SCHIMEK: I was more planting a thought in your head than anything else. []

SEAN SCHROLL: Yeah. And it's on-line, too, as well. And it has been since that...so we may have even done that. I'm not even sure. []

SENATOR SCHIMEK: Okay, okay. Well, it's just not acceptable. []

SEAN SCHROLL: Yeah. []

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SENATOR SCHIMEK: Thank you. Thank you for being here. []

SEAN SCHROLL: Thank you. And, I guess, before I...everybody else done with me? I guess on a note, the Department of Health and Human Services has made significant changes in the last six to eight months working with us, setting us at a higher level of awareness and standards as well. So, I guess, I can appreciate what HHS has done. Prior to some of these things, things were a little bit more I don't know if open is the word or unknown. We've had notices, there is better communication with us and the Department of Health and Human Services. I guess I got to try to defend them here a little bit. But something in terms of they have no way or checking or they have never checked in the last two years if a transport was completed or something. But we have...HHS has actually, you know, they'll blind side us sometimes with can you provide documentation that this transport was completed. And we're like, ahh, so we got to go through all our sign-offs and get the documents that they need. So maybe it's not what you guys are looking for, but they have...they do audit us on occasion. So... []

SENATOR SCHIMEK: And we do appreciate that. []

SEAN SCHROLL: All right, thank you. []

SENATOR SCHIMEK: Thank you very much. I don't think I...there were any other testifiers that wanted to testify. So, Mr. Landry, would you mind, for just a minute, coming back up. And I learned over to Martha Carter, after you left a little while back, and I said, I forgot to ask him about the background checks. []

TODD LANDRY: Yes, ma'am. []

SENATOR SCHIMEK: Could you, for us, tell us what you think about the situation. I mean, I appreciate Mr. Schroll being here. And I think it was good of him to be here. But

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that really is unacceptable. And how do we prevent that kind of thing from happening? []

TODD LANDRY: Well, certainly we can do everything within our power to try to prevent any of those situations from happening. Because I agree with everyone here, I believe, that any of those situations, a single incidence of child abuse or neglect is unacceptable. I mean that is the standard that we all seek to achieve in all of our work that we do. Some would tell me that that's an unrealistic goal, but I don't believe it is. And I'm happy to be able to report that on our Website you can see how we're doing on one of the key federal data measures as it relates to child welfare is recurrence of maltreatment and maltreatment of children in foster care. And in both of those cases we are somewhere in the neighborhood of 99 percent of safety for children in foster care as well as lack of recurrent maltreatment. Nonetheless, that .3 percent is still too much, and we recognize that and we strive to make sure that we're doing everything we can to eliminate it completely. I believe on the maltreatment of children in foster care, federal measure, I believe we are currently meeting the federal benchmark, although those numbers change slightly each month, based on the reporting data that comes out of that SACWIS system that I referred to earlier. So again, even though we're meeting a federal benchmark and meeting those kinds of goals, any instance of child abuse or neglect certainly for children who are in our care is unacceptable. Now specifically as it relates to background checks, one of the things that we did not get a chance to talk about, in the interest of time I won't go into great detail on it. But one of the things that we have been working on and have been for approximately the past several months is looking specifically at those transportation contracts to see what can we ensure and what can we change in those contracts in order to be very clear about what our expectations are as it relates to pre-service training as well as ongoing training. Among those are, and these are proposals that we are considering and will be working with our providers in order to determine what the potential cost impact of these are, because some of these certainly do have a financial impact, and how we can potentially accommodate those. But one of those is the requirement for mandatory 50-state FBI checks as opposed to the Nebraska check. I'm not implying, and to be honest I don't

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even know of the three specific instances that Senator McDonald pointed out whether or not if in fact that would have shown anything. I'd have to go back and do that research to figure that out. It may or may not have, but certainly it is a level of those FBI checks of where that is something that's required of our foster parents currently, not currently a requirement in the transportation agreements, and something that we're considering making across the board. We're also considering requiring mandatory drug testing for all drivers. Again, that's going to come at a potential cost. And we have to evaluate the cost of that and whether or not resources allow us to do that. A third piece that we're considering requiring is a mandatory specific defensive driving course completion for all drivers. We are also considering the implementation of a certification training course that would go along with that. Obviously, defensive driving is something that can apply to all drivers. There is the possibility that we could require a specific certification training course from a higher level of competency-based training that could be required. Many of those pieces certainly have a cost impact, as I've said, associated with them. We need to work with our providers and commit to work with our providers and others to determine what that cost impact may be and whether or not we can in fact put these additional levels of training and background checks in place in order to hopefully prevent any of these situations happening in the future. Unfortunately, I'd like to be able to say if we did every one of these things we would absolutely be able to guarantee 100 percent of the time that 100 percent of the kids in our care are being transported 100 percent safely. Unfortunately, I don't think I can do that. And I believe I'm sure you can all understand the human nature aspect of what we're doing. []

SENATOR SCHIMEK: Well, one of the things I suppose it's hard to evaluate is the caring component, too. And that is something that I think is so essential, when you're transporting particularly little children, not to leave them somewhere where they're going to be scared to death, where they're going to have to wait by themselves or... []

TODD LANDRY: Absolutely. []

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SENATOR SCHIMEK: ...you know. And I don't know how you measure that. And maybe you do. And I don't know how you pay for that. And that leads to my last question. Do we pay adequately for these transportation services? And, you know, I don't know what I mean by adequately. But would...is this essentially a low-income job that we're paying for? []

TODD LANDRY: Well, I don't...again, that is a relative term as well. And so I don't know exactly how to answer that question. What I can say is it's relatively lower paying than some of our other jobs that are within the broader child welfare system, such as our caseworkers or social service workers or some of the others. []

SENATOR SCHIMEK: Um-hum, well, sure. []

TODD LANDRY: As far as whether or not we're paying adequately, I'm sure that there would be a wide variety of answers to that question, depending upon who you were asking. What we attempt to do with all of our contracts is provide a reasonable reimbursement for the services being provided and try to balance the desire to potentially pay additional dollars that contractors or providers may be asking and balance that against the...also the desire to ensure that we're getting the absolute value for those services for Nebraska taxpayers. And it is that balancing act, and that's where contract negotiations come into play, that's where the bidding system oftentimes comes into place in order to ensure that we're meeting both of those sometimes competing interests. []

SENATOR SCHIMEK: Thank you. Senator Preister has a question. []

SENATOR PREISTER: Senator Schimek touched on the case that Carol Stitt reminded us that is an important component of what we're looking at--not just the contracts, not just the aspects of it that deal with the service but the human element, the human component. I assume we competitively bid these contracts so we're tending to get the

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cheapest price. But what Senator Schimek was talking about deals with the emotional, the developmental, the kinds of things that impact whether that child develops into a taxpaying citizen or a tax draining system. And if that child is traumatized and not developed, as we factor in cost do we factor in prison time or other kinds of other social service costs, as well as the lost potential of a human life, which is probably the most important thing. So I heard twice, one from Carol and one from Mr. Seyfarth, the suggestion of having a case aide as an alternative to just competitively bidding transportation cost. There may be legitimate times when we contract out and we have contracts for delivery, some situations. There may be many other times when we need somebody who is a part of the case management, who understands the system, who understands the child, who's going to be there to make sure the child isn't left at an appointment and then no one shows up to pick them up. For the times when the current system fails maybe that can be looked into. And maybe we can work together to find and identify those areas when alternatives to just contracts can be done so that a greater portion of the true cost can be factored in. []

TODD LANDRY: I appreciate those comments. And I'm not...I don't disagree at all that certainly there are some intangibles related to the work that we do every single day in all aspects of our work that make a tremendous difference in the lives of children and youth that we are serving. As we go forward, some of the things that we believe are in the best interests of our system as far as reform mechanism is to...and I believe Carol mentioned this, is to ensure that transportation is not, generally speaking, a separate stand alone piece of what is being offered. And certainly, I do believe that as we go forward, the more times that a foster parent can be transporting instead of a transportation provider is probably a good thing... []

SENATOR PREISTER: Yeah. []

TODD LANDRY: ...because they obviously are with the children and have responsibility for those kids 24-7 as opposed to a provider that is not as potentially as invested in that

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child. I certainly also believe that where possible a family or a friend known to the child who can safely transport that child and has that relationship with the child is a more effective way of not only ensuring the stability of the transporter but also providing that level additional compassion, care and knowledge of the child that they're transporting. And then again to repeat what I said earlier, as we go forward I certainly intend that as we look at the reform of our systems, both in home and out of home, that we combine those pieces together so these aren't piecemeal approaches but instead are looking at the overall case coordination as opposed to silos of services that may be needed to meet the needs of children and families. []

SENATOR PREISTER: Yours is not an easy job, but I appreciate that you're doing it. I appreciate that you stayed to hear the testimony, because frequently people do their testimony and they're out the door and never get the bigger picture. So I appreciate that you stayed and, from your comments back, I know that you heard the things that were said. And I appreciate your last comments about looking at the big picture, not just individual components, which I think is very, very important. So thank you. []

TODD LANDRY: You're welcome. []

SENATOR SCHIMEK: Senator McDonald. []

SENATOR McDONALD: And I think many times we teach our children to not go with strangers, but yet we're doing just the reverse by taking these children that are taken out of their homes and we're constantly putting them with strangers. And so we're defeating the purpose of having any kind of trust in the family situation. And I think what we're here to do is learn from our mistakes. The last testifier, I would guarantee you they are much better at hiring their employees because of what has happened. And so that's why we have these types of things, so that we can get better at what we do, so we don't have those issues. []

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TODD LANDRY: I appreciate that very much, Senator. And I appreciate the spirit in which that's offered, because I believe that is what we're all trying to do. All of us recognize that, while there are some successes within our system, there are many areas that we can certainly improve upon. And this is one of those areas, one of the top ten priorities that Governor Heineman established for the Department of Health and Human Services, under LB296. I believe it was number one, which is to accelerate the reform of the child welfare system. There is a very clear recognition on I certainly know on my part and I believe it is now being increasingly instilled within the entire division that I run is that we cannot afford to wait, we have to keep pushing forward. And sometimes our reform efforts are going to be on a very, very aggressive time line but that's because we simply feel like we can't waste any time in order to make the changes that we need to make. So I appreciate that very much. And thank you for your comments. []

SENATOR SCHIMEK: Seeing no further questions, thank you very much for being here, for staying and for coming back up and answering more questions. []

TODD LANDRY: You're most welcome. []

SENATOR SCHIMEK: Appreciate it. I'm taking if there are no others who wish to testify this afternoon, if not that will conclude the hearing for the day. And we appreciate you all being here. Thank you. []